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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,432	02/18/2004	Teresa Marie Zander	18874	3485
23556	7590	01/21/2005	EXAMINER	
KIMBERLY-CLARK WORLDWIDE, INC.			HILL, LAURA C	
401 NORTH LAKE STREET			ART UNIT	
NEENAH, WI 54956			PAPER NUMBER	

3761

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO/ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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20041207

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Office Action Summary

Application No.

10/781,432

Applicant(s)

ZANDER ET AL.

Examiner

Laura Hill

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>21 June 2004</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

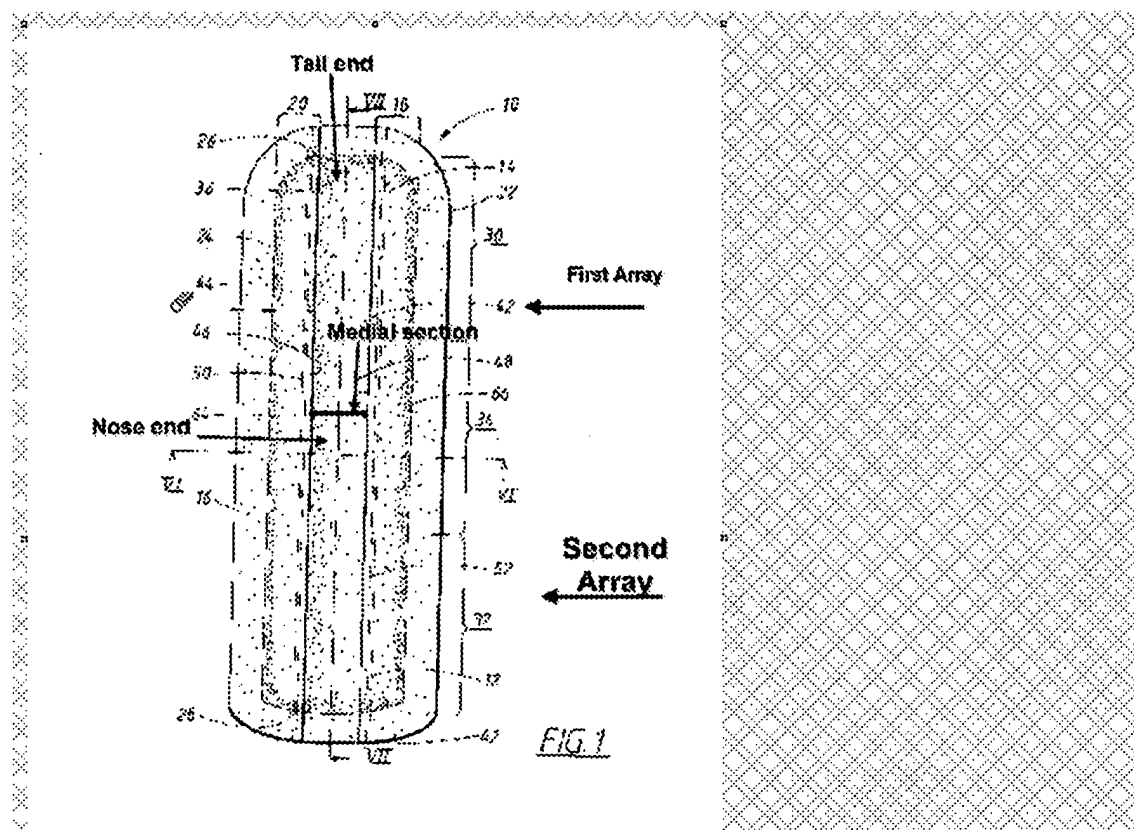
Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-2, 9-11, 14-15, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Drevik (US PG Pubs 2002/0040212). With regard to claims 1-2, the Drevik reference discloses beads 54 on elastic members 50, 52(deformation-control member) that serve as spacing means 60 in a direction from the center of the napkin to the longitudinal sides of the napkin and contain the claimed array, medial portion and nose/tail-end configurations (figure 1, paragraphs 0029, ll. 1-6 and 0032, ll. 4-9).



With regard to claims 9-11, the Drevik reference discloses beads/stiffening elements that have a longer length dimension than width dimension and stiffening elements which are continuous along their length (axis VII) but some elements can also be discontinuous and located in an intermediate section/pocket 64 (figure 1). With regard to claims 14-15, the Drevik reference discloses longitudinal edges 22, 24 analogous to first base-side section and first complementary-side section, respectively which are mirror images of one another (figure 1). With regard to claim 17, the Drevik reference discloses long cylinders 56 alongside beads 54 in elastic members, which are up to 50 mm long (paragraph 0039, II. 1-2). With regard to claim 19, the Drevik reference discloses beads/stiffening elements that are substantially linear as claimed (figure 1).

Claim Rejections - 35 USC § 103

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

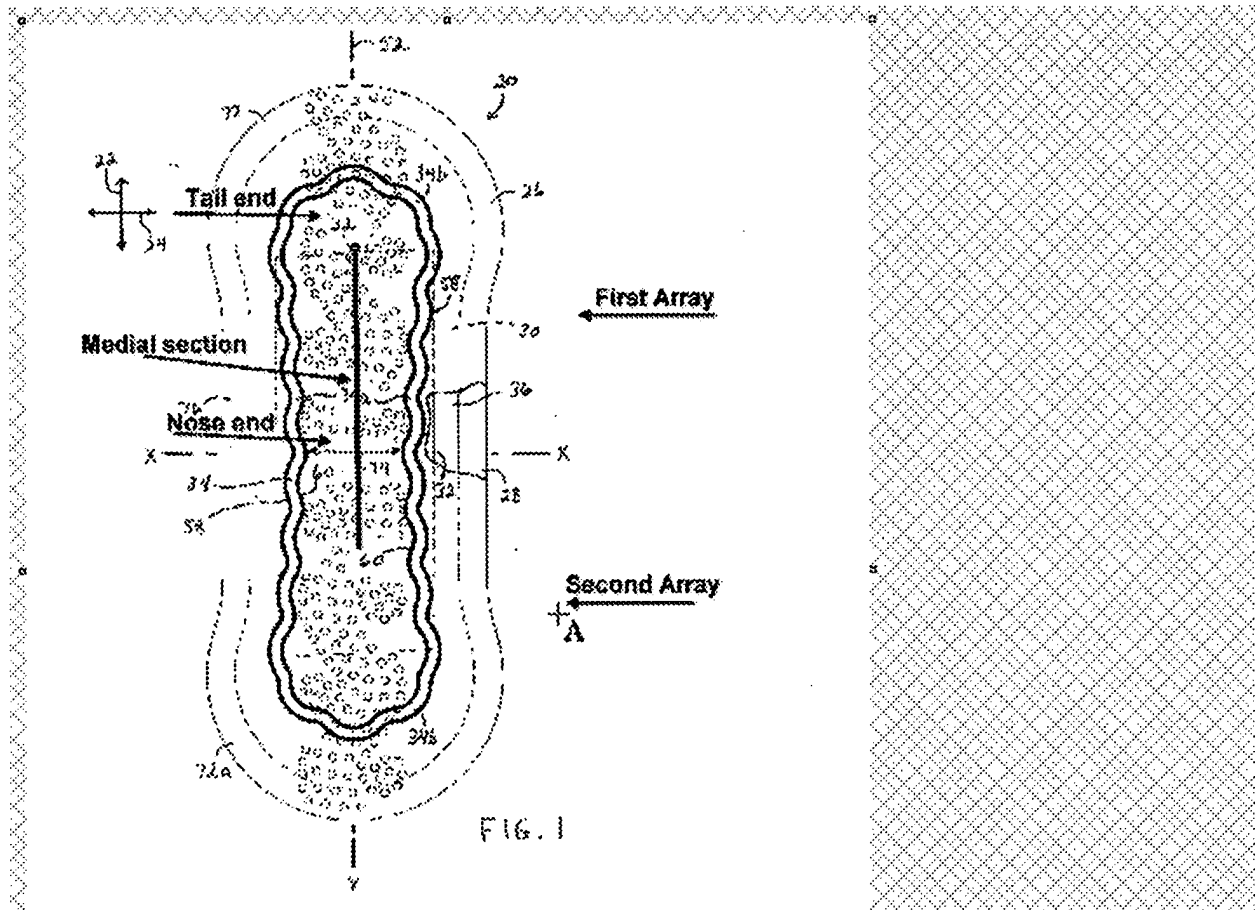
2. Claims 3-8, 18 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drevik (US PG Pubs 2002/0040212). With regard to claim 3, the string of beads/stiffening elements discussed above may be created by point sealing and it would therefore be obvious to one skilled in the art from the teachings of Drevik that other formation methods could be used for stiffening elements including embossment (paragraph 0031, ll.1-3). With regard to claims 4-5, the Drevik reference discloses absorbent article comprising absorbent core delimited by upper and lower surfaces, whereby a liquid permeable top sheet extends over upper surface and liquid barrier back sheet covers the lower surface of absorbent core (paragraph 0011, ll. 2-10). It would be obvious to combine the deformation-control member/ elastic members 50, 52 discussed above with the absorbent body configuration of Drevik with shaping layer/back sheet to have a control member which provides at least a portion of a shaping layer portion/back sheet of an absorbent body. With regard to claim 6, the Drevik reference discloses sanitary napkin 10 with absorbent core 12, permeable top

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sheet 36 and back sheet/baffle 42 with aforementioned structure (paragraph 0026, ll. 1-8).

With regard to claims 7-8, even though the medial portion width and length ranges are missing from the Drevik reference, these ranges would be obvious to those skilled in the art to improve overall article performance as specified. With regard to claim 18, the Drevik reference discloses separation between adjacent stiffening elements to be at least 1 mm, which falls within the range claimed (paragraph 0044, ll. 1-2). With regard to claim 20, the Drevik reference does not disclose curvilinear stiffening elements but it would be obvious to make them in this configuration to improve performance from the previously discussion of the stiffening elements. With regard to claims 21-23, the Drevik reference discloses longitudinal elastic members with embossing located along longitudinal edge of absorbent core/shaping layer in central portion of absorbent article (paragraph 0011, ll. 13-16). Even though the Drevik reference has no supplemental layer, it would be obvious to add this layer, which is sandwiched between the garment and body-side of the shaping layer to help improve wicking as specified.

3. Claims 1-7, 9-11, 13-16, 18-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmussen et al. (US PG Pubs 2004/0176734). With regard to claims 1-4, the Rasmussen et al. reference discloses curvilinear embossment region/stiffened region 34 formed in a portion of the body side cover 26 and absorbent body 30 but stiffening elements do not avoid medial section of embossment region (figure 1 and paragraph 0027, ll. 13-20).



With regard to claim 5, the Rasmussen et al. reference absorbent body structure 30 can at least include an intake layer 32 and a shaping layer 36 (paragraph 0027, ll. 25-27). With regard to claim 6, the Rasmussen et al. reference discloses absorbent article which includes a body side liner/cover 26, an outer cover back sheet/baffle 28 and an absorbent structure 30 positioned between the cover and baffle as applied to the claims discussed above (paragraph 0027, ll. 13-16). With regard to claims 7-8, the Rasmussen et al. reference discloses embossment region 34 that extends over a distance of at least 10 cm/100 mm along the longitudinal direction 22 across the intermediate portion 76/medial portion and a region width 56 measured between

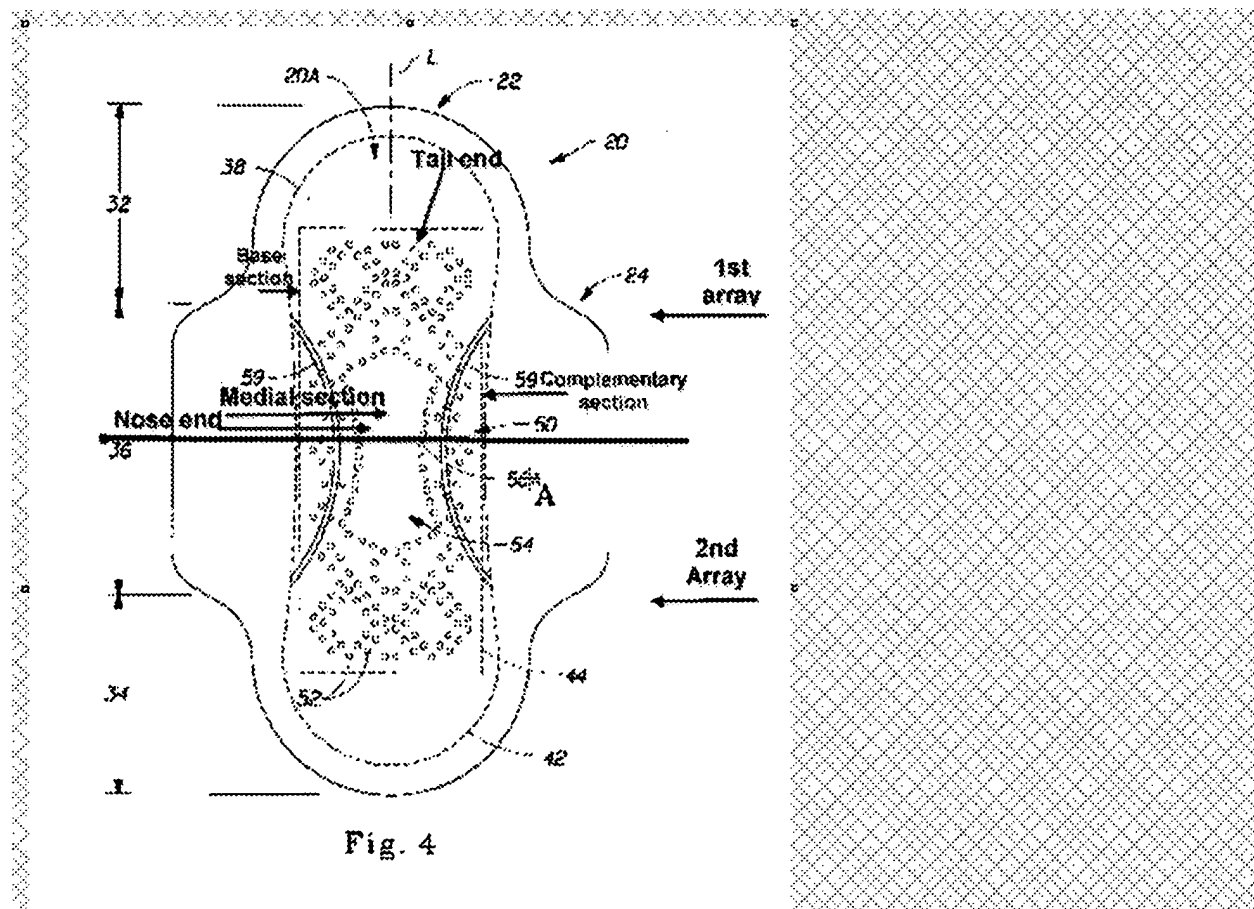
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outboard edge 62 of embossment region and corresponding inboard edge 65 which is a minimum of 5 mm (paragraphs 0082, II. 2-5 and 0089, II. 2-4). With regard to claims 9-11, the Rasmussen et al. reference discloses stiffening elements, which have same width and length dimensions but are obviously discontinuously located in intermediate section 76 (figures 1 and 4).

With regard to claim 13, the Rasmussen et al. reference discloses embossment lines that can be oriented about 35 degrees from lateral axis in an angle analogous to first alignment angle (paragraph 0079, II. 9-12). Although the Rasmussen et al. reference does not disclose a second alignment angle, it would be obvious to add another angle at the opposite end of the stiffened region 34 previously discussed in order to provide desired shaping during wearer use as specified. With regard to claims 14-15, the Rasmussen et al. reference discloses embossment region previously discussed having a pair of transversely spaced-apart, laterally opposed side-portions 34a which extend generally along the longitudinal-direction 22 and are analogous to first base and complementary-side sections, providing the same structure as recited (paragraph 0083, II. 1-4). With regard to claim 16, the Rasmussen et al. reference discloses embossment region caliper of up to 30% in the central region of absorbent article, which falls within the range claimed (paragraph 0099, II. 12-15). With regard to claim 18, the Rasmussen et al. reference discloses separation distance 68 between embossment elements at least 0.5 mm and a maximum of 80 mm (paragraph 0092, II. 5-10). With regard to claims 19-20, the Rasmussen et al. reference discloses substantially linear and curvilinear stiffening elements (figure 1).

With regard to claims 21-23, the Rasmussen et al. reference discloses that intake and shaping layers can have various configurations of sizes to provide desired combinations of liquid intake time (paragraph 0027, ll. 27-32). It would therefore be obvious to select an appropriate configuration of supplemental and shaping layers to maximize absorbent article performance from the teachings of the Rasmussen et al. reference. With regard to claims 24-26, the Rasmussen et al. reference discloses embossment region 34 containing nonlinear channel embossment element/perimeter embossment with a relatively outboard position toward the terminal edges of the article (paragraph 0089, ll. 1-5 and figure 1). Even though the curved embossment elements within the perimeter embossment do not substantially avoid intersecting the perimeter embossment, it would be obvious that these elements could function in the same manner claimed to direct fluid.

4. Claims 1-6, 9-11, 16-17 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniels et al. (US 6,319,239). With regard to claims 1-3, the Daniels et al. reference discloses bonded areas 52 (continuous/noncontiguous) located on top sheet 38 which can be formed by heat and/or pressure bonds/embossing and bonded areas connect top sheet 38 with acquisition component 44/stiffening elements (col. 8, ll.39-52 and figure 1) and line L defining medial section claimed (figure 4).

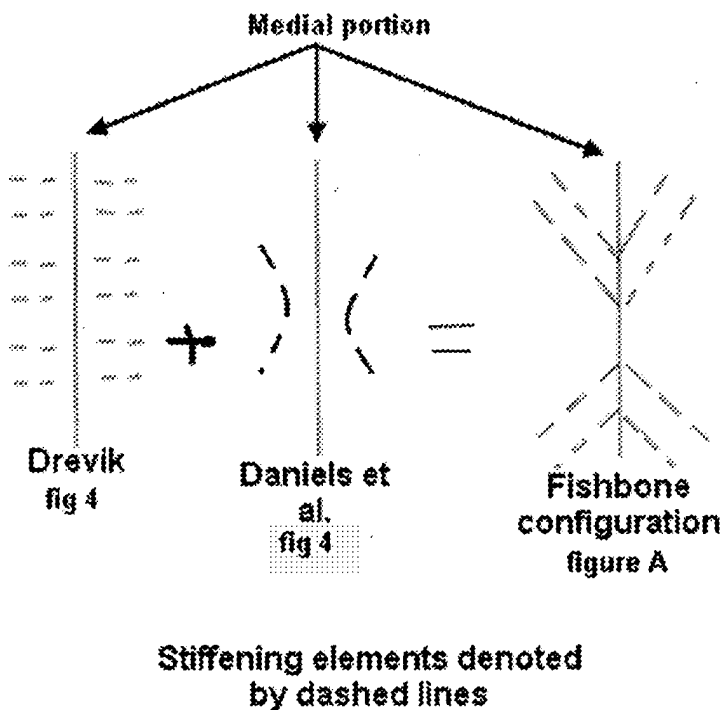


With regard to claims 4-5, the Daniels et al. reference discloses deformation control member shown by rectangular dotted line in figure 4 that provides a portion of the top sheet which is on top of absorbent body and portion of laminate 44 which is analogous to shaping layer portion. From the teachings of the Daniels et al. reference it would be obvious to configure the deformation control member previously discussed to provide at least a shaping layer portion of the absorbent body to improve performance characteristics of absorbent article. With regard to claim 6, the Daniels et al. reference discloses an absorbent article containing a liquid pervious top sheet, liquid impervious back sheet, an absorbent core and an acquisition component/absorbent body sandwiched between (col. 2, ll.64-col. 3, line 3). With regard to claims 9-11, the Daniels

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et al. reference discloses stiffening elements with the same length and width dimensions (fig. 4). The majority of the stiffening elements are continuous along their length but it would be obvious to modify their configuration to be discontinuously located in intermediate section of article to improve performance as specified (fig 4). With regard to claims 16-17, the Daniels et al. reference discloses a laminate, which contains the bonded areas/stiffening elements with depth of 1.22 mm and a diameter of 1-3 mm (col. 7, ll. 45-46 and col. 9, ll. 13-15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a similar depth to provide the caliper percentage and to provide a length within the range of the diameter claimed. With regard to claims 21-23, the Daniels et al. reference discloses laminate 44, which are analogous to shaping layer portion with embossing elements/fusion bonds 52, but no supplemental layer. It would be obvious to select an appropriate configuration of supplemental and shaping layers to maximize absorbent article performance from the teachings of the Daniels et al. reference.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Drevik (US PG Pubs 2002/0040212) in view of Daniels et al. (US 6,319,239). With regard to claim 12, the Drevik reference discloses a medial portion space as previously discussed with beads/stiffening elements extending outward from medial portion (fig. 4) while the Daniels et al. reference discloses bonded areas 52 that extend in a concave fashion in the medial portion (fig. 4). It would be obvious to combine these two configurations to form two fishbone arrays of stiffening elements as claimed as seen in figure A below since the purpose of the fishbone configuration is not specified.



6. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Drevik (US PG Pubs 2002/0040212) in view of Rasmussen et al. (US PG Pubs 2004/0176734) in further view of Daniels et al. (US 6,319,239). The Drevik reference discloses the arrays of stiffening elements, medial portion and nose/tail ends and their configurations as previously discussed with regard to claim 1 and longitudinal edges 22, 24 analogous to first base-side section and first complementary-side section as previously discussed with regard to claim 14. The Rasmussen et al. reference discloses embossment lines with orientation angles analogous to first alignment angle as previously discussed with regard to claim 13 and a pair of transversely spaced-apart, laterally opposed side-

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portions 34a which extend generally along the longitudinal-direction 22 as previously discussed with regard to claim 15. When modifying the Drevik reference in view of the Davis et al. reference, two fishbone arrays of stiffening elements are formed as previously discussed with regard to claim 12. By combining all of the aforementioned elements of Drevik, Rasmussen et al. and Daniels et al, it would be obvious to have the absorbent article claimed with all of the structural requirements since the rationale to modify or combine the prior art does not have to be expressly stated in the prior art; the rationale may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art, established scientific principles, or legal precedent established by prior case law. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Demange reference, US patent no. 3,755,000, is cited for showing a non-porous embossed sheet electrode structure with a plurality of projections arranged in rectilinear bands on the electrode surface to direct fluid. The Hansen et al. reference, US patent no. 6,222,092, is cited for showing an absorbent article with barrier elements located on the inner liner to form barriers to flow of urine but the "arrays" intersect the medial section.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Hill whose telephone number is 571-272-7137.

The examiner can normally be reached on 8:00 AM-5:30 PM (off every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on 571-272-4390. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Laura Hill
Examiner
Art Unit 3761

LCH



Larry I. Schwartz
Supervisory Patent Examiner
Group 3700